Remarks

Applicant respectfully requests reconsideration of this application as amended.

Claims 1, 11, 15, 18, 21, and 24 have been amended. No claims have been cancelled or

added. Therefore, claims 1-30 are presented for examination.

Electronic Copy of Response

As per the Examiner's request, an electronic copy of this Office Action response

has been included on a 3.5 inch IBM format floppy disk. It is the applicant's

understanding that, as stated in the Office Action, the floppy disk file will be considered a

duplicate copy, and only the paper copy will be entered.

35 U.S.C. §103(a) Rejection

Claims 1-30 stand rejected under 35 U.S.C. §103(a) as being unpatentable over

the Admitted Prior Art (APA) from the Application Background in view of Orton et al.

(U.S. Patent No. 6,351,778). Applicant submits that the present claims are patentable

over the APA in view of Orton.

Orton discloses a method and apparatus for enabling an object-oriented

application to access in an object-oriented manner a procedural operating system having a

native procedural interface. (Orton at Abstract.) Orton discloses a code library including

computer-programming logic implementing an object-oriented class library. The object-

oriented class library comprises related object-oriented classes for enabling an application

to access, in an object-oriented manner, services provided by an operating system. The

object-oriented classes include methods for accessing the operating system services using

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procedural function calls compatible with the native procedural interface of the operating system. (Col. 3, lines 50-63.)

Claim 1 recites, in part, testing for the second thread to complete execution of a critical section of code *until* one of the following occurrences: the second thread completes; and a <u>yielding count expires, wherein the yielding count is the amount of time the first thread is to remain in the processing queue</u>. (Emphasis added.) Applicant submits that Orton does not disclose or suggest utilizing a yielding count as a condition for duration of testing where the yielding count is the amount of time a thread is to remain in a processing queue. The Examiner asserts that "the claimed 'yielding count' clearly transcends the more narrow scope that Applicant attempts to impute through argument." (Final Office Action mailed 5/11/05 at pg. 5, point 4.) The Examiner further cites various cases to clarify that claims must be given their broadest reasonable interpretation and uses this material to support the interpretation that Orton's "time-outs" are equivalent to the "yielding count" of the present application. (Id. at pgs. 5-7.)

However, the "claimed narrow scope" that the Examiner asserts Applicant imputed to the yielding count is consistent with the features disclosed in claim 1. Applicant agrees that the claims must be given their broadest reasonable interpretation; however, this interpretation should not be made to the exclusion of what is actually being claimed. The "yielding count" of claim 1 is disclosed as part of a larger feature of claim 1, the larger feature being "testing for a second thread to complete *until* one of the following occurrences: the second thread completes; and a yielding count expires...." The expiration of the yielding count is the "one of the following occurrences." Therefore, when stating that Orton does not disclose or suggest utilizing a yielding count

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as a condition for duration of testing, applicant is not "imputing a narrow scope" to the term through argument. Instead, applicant is merely stating what is actually claimed.

The Examiner seems to use Orton to disclose the feature of a "yielding count" individually. Yet, claim 1 discloses more than a "yielding count" individually; rather, claim 1 discloses the novel use of the yielding count (namely, its expiration) as a condition for the duration of a particular testing of a thread. Such a feature is clearly disclosed in claim 1, and cannot be found anywhere in Orton or the APA.

Furthermore, applicant submits that there is no disclosure or suggestion in Orton of a yielding count that is <u>the amount of time a first thread is to remain in the processing queue</u>. Therefore, for the above reasons, claim 1 is patentable over Orton in view of APA. Claims 2-10 depend from claim 1 and include additional limitations. Therefore, claims 2-10 are also patentable over the APA in view of Orton.

Claims 11, 15, 18, 21, and 24 each recite, in part, utilizing a yielding count as a condition for duration of testing where the yielding count is the amount of time a thread is to remain in a processing queue. Similar to the discussion above, neither the APA nor Orton disclose or suggest such a feature. As a result, claims 11, 15, 18, 21, and 24 are patentable over the APA in view of Orton for the reasons discussed above with respect to claim 1. As claims 12-14, 16-17, 19-20, 22-23, and 25-30 depend from claims 11, 15, 18, 21, and 24, respectively, and include additional limitations, these claims are also patentable over the APA in view of Orton.

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Applicant respectfully submits that the rejections have been overcome and that

the claims are in condition for allowance. Accordingly, applicant respectfully requests

the rejections be withdrawn and the claims be allowed.

The Examiner is requested to call the undersigned at (303) 740-1980 if there

remains any issue with allowance of the case.

Applicant respectfully petitions for an extension of time to respond to the

outstanding Office Action pursuant to 37 C.F.R. § 1.136(a) should one be necessary.

Please charge our Deposit Account No. 02-2666 to cover the necessary fee under 37
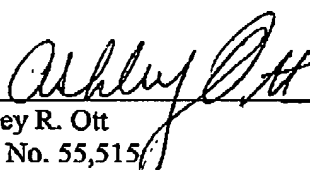
C.F.R. § 1.17(a) for such an extension.

Please charge any shortage to our Deposit Account No. 02-2666.

Respectfully submitted,

BLAKELY, SOKOLOFF, TAYLOR & ZAFMAN LLP

Date: 7/11/05   _____

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